

REMARKS

In response to said notice, Applicants note that contra to assertions made in the Office Action, no text was deleted from claim 313 that was included in the claim recited in the claim set pending on November 6, 2003. Second, with respect to claim 318, Applicants in the response submitted on November 12, 2004 had traversed the restriction requirement. Again, Applicants wish to emphasize that In Applicants view, independent claims 318 and 321 are "linking" claims. A linking claim in MPEP §809.03 is defined as follows:

There are a number of situations which arise in which an application has claims to two or more properly divisible inventions, so that a requirement to restrict the application to one would be proper, but presented in the same case are one or more claims (generally called "linking" claims) inseparable therefrom and thus linking together the inventions otherwise divisible.

The most common types of linking claims that, if allowed, act to prevent restriction between inventions that can otherwise be shown to be divisible, are genus claims linking species claims;

(B) a claim to the necessary process of making a product linking proper process and product claims;

(C) a claim to "means" for practicing a process linking proper apparatus and process claims; and

(D) a claim to the product linking a process of making and a use (process of using)

According to MPEP §809:

The linking claims must be examined with the invention elected, and should any linking claim be allowed, the restriction requirement must be withdrawn. Any claim directed to the nonelected invention(s) previously withdrawn from consideration, which depends from or includes all

the limitations of the allowable linking claim must be rejoined and will be fully examined for patentability. Where such withdrawn claims have been canceled by applicant pursuant to the restriction requirement, upon the allowance of the linking claim(s), the examiner must notify applicant that any canceled, nonelected claim(s) which depends from or includes all the limitations of the allowable linking claim may be reinstated by submitting the claim(s) in an amendment. Upon entry of the amendment, the amended claim(s) will be fully examined for patentability.

Clearly, claims 318 and 321 constitute linking claims since each of these claims link the products recited in claims 245 and 299 respectively with processes of using this product.

Additionally, the Examiner has required restriction between product and process claims. However, Applicants note that according to MPEP §821.04, where Applicant elects claims directed to the product, and a product claim is subsequently found allowable, withdrawn process claims that depend from or otherwise include all the limitations of the allowable product claim will be rejoined.

However, in order to be responsive, Applicants have indicated that claims 318-232 are withdrawn.

Respectfully submitted,



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